

In 1963-1964, Airlift International and Central Airlines, both of which had had such an age policy, discontinued it.

Available information on foreign airlines is that on seven of them the age ceilings generally fall in the 40's and 50's, up to a maximum age of 67 in Norway.

(c) No similar age ceiling for continued employment for stewards exists on any airline. According to the information on hand, the job duties of stewards and stewardesses are the same.

SUMMARY

(1) None of the evidence on hand gives warrant for the establishment of an industrywide policy setting a special arbitrary chronological age for continued employment of airline stewardesses—whether age 32 or 35, or any age below that of the standard mandatory retirement age for company employees.

(2) The evidence on hand does support the opposite position; namely, that termination as an airline stewardess prior to the employer's standard mandatory retirement age should be predicated solely on the individual stewardess' continued ability to perform the duties of the position at the level of performance required by each airline company for its stewardesses.

(3) On the basis of the evidence before me as Investigating Commissioner, I do not find that, under the New York State Law Against Discrimination, there is support for a claim that a bona fide occupational qualification based on age for continued employment properly applies to the airline stewardess position on an industrywide basis.

J. EDWARD CONWAY,
Investigating Commissioner.

MARCH 23, 1966.

EXHIBIT 9

DETERMINATION AFTER INVESTIGATION,

Eloise Soots v. American Airlines, Inc.

CASE NO. CA-12288-65

J. Edward Conway, Investigating Commissioner

April 20, 1966

The above-entitled verified complaint is one of several complaints involving the job category of airline stewardess, each of which charges, that, in dismissing the complainant from employment as an airline stewardess when she reached a given age (in the instant case, age 33) respondent airline company discriminated against the complainant because of age, in violation of the New York Law Against Discrimination.

The respondent airline company herein does not dispute the charge that the basis of the above-named complainant's dismissal was her reaching a given chronological age or that complainant would have been retained in her position as airline stewardess except for respondent's policy setting a maximum age for continued employment as airline stewardess. There has been no presentation of any substantial evidence or argument that the individual work history of the complainant had any material bearing on the termination of her employment as an airline stewardess. The central issue is therefore quite clear, namely, reference to the qualifications of the individual employee, does the airline violate the New York Law Against Discrimination when it establishes a company policy setting a special arbitrary chronological age for continued employment of its airline stewardesses at any age below that of the standard mandatory retirement age for company employees, and applies such policy without reference to the qualifications of the qualifications of the individual employee?

Full opportunity has been afforded to respondent to provide data and argument on the merits. To the extent to which respondent has availed itself of this opportunity, respondent has not submitted, in support of the special age limit which it has established, persuasive evidence such as might validate any blanket bona fide occupational qualification.

Further, the information submitted by respondent does not furnish any warrant for the grant of a bona fide occupational qualification to it because of any